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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,778	05/14/2001	Edward O. Clapper	INTL-0564-US (P11332)	8166
7590	07/14/2005		EXAMINER	
Timothy N. Trop TROP, PRUNER & HU, P.C. 8554 KATY FWY, STE 100 HOUSTON, TX 77024-1805			HOOSAIN, ALLAN	
			ART UNIT	PAPER NUMBER
			2645	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,778

Applicant(s)

CLAPPER, EDWARD O.

Examiner

Allan Hoosain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3,5,7,11-12,14-15,17,21-24 are rejected under 35 U.S.C. 102(e) as being anticipated by **Swartz et al.** (US 6,330,244).

As to Claims 1,11, with respect to Figures 1,5,11, **Swartz** teaches a method comprising:

wirelessly linking a plurality of mobile unit users (customers) within a PBX facility (retail facility) through a local area network based in the PBX (retail) facility (Figure 6A); and

enabling customers to communicate with one another via message requests (text messages) over said network (Col. 17, lines 8-26, Col. 7, lines 33-40 and Col. 4, lines 57-61 and Figure 11).

As to Claims 2,12, **Swartz** teaches the method of claim 1 wherein wirelessly linking includes providing wireless access to a server by a plurality of customers within a retail facility (Figure 6A).

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As to Claim 3, **Swartz** teaches the method of claim 1 including providing a processor-based device to retail customers that wirelessly communicates with said server (Figure 6A).

As to Claims 5,14, **Swartz** teaches the method of claim 1 including receiving audible communications from said customers (Col. 4, lines 58-61).

As to Claims 7,15,17 **Swartz** teaches the method of claim 1 including pushing electronic files to customers (Figure 11A and Col. 7, lines 44-65).

As to Claims 21-24, with respect to Figures 1-3, **Swartz** teaches a system comprising:

a processor (610); and

a storage,640, coupled to said processor to wirelessly link a plurality of customers within a PBX (retail) facility through a local area network based in the PBX (retail) facility and enable customers to communicate with one another via (text messages) through said network (Col. 17, lines 8-26, Col. 7, lines 33-40 and Col. 4, lines 57-61 and Figure 11).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-3,5,7-12,14-15,17-24,35-36,38-39,41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Beach et al.** (US 6,084,528) in view of **Swartz et al.** (US 6,330,244).

As to Claims 1,11,35-36,38-39,41-42, with respect to Figures 1-3, **Beach** teaches a method comprising:

wirelessly linking a plurality of consumers and clerks or customer service attendants (customers) within a retail facility through a local area network based in the retail facility (Figure 1, label 20 and Col. 3, lines 34-40, 57-58); and

enabling customers to communicate with one another via message requests (text messages) over said network (Col. 3, lines 44-56; Col. 11, line 57 through Col. 12, line 3);

Beach does not teach the following limitation:

“customers to communicate with one another”

However, it is obvious that **Beach** suggests the limitation. This is because **Beach** teaches that parent inquiries can be transmitted to other users in a store and which suggests the parent receiving responses to the inquiries (Col. 12, lines 40-44). **Swartz** teaches mobile units which are used in stores and communication between users (Col. 17, lines 8-26, Col. 7, lines 33-40 and Col. 4, lines 57-61 and Figure 11). Having the cited analogous art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add mobile unit communications to **Beach**'s invention for communication between users as taught by **Swartz**'s invention in order to provide assistance to users and communicate between users.

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As to Claims 2,12, **Beach** teaches the method of claim 1 wherein wirelessly linking includes providing wireless access to a server by a plurality of customers within a retail facility (Col. 3, lines 44-56).

As to Claim 3, **Beach** teaches the method of claim 1 including providing a processor-based device to retail customers that wirelessly communicates with said server (Figure 3).

As to Claims 5,14, **Beach** teaches the method of claim 1 including receiving audible communications from said customers (Col. 4, lines 16-24).

As to Claims 7,15,17,20, **Beach** teaches the method of claim 1 including pushing electronic files to customers (Col. 9, lines 1-19).

As to Claim 8,18, **Beach** teaches the method of claim 1 including providing information about the current location of a processor-based device associated with a customer (Col. 12, lines 51-52).

As to Claims 9,19, **Beach** teaches the method of claim 8 including providing information about the customer's location to the server (Col. 12, lines 51-52).

As to Claim 10, **Beach** teaches the method of claim 9 including pushing information to the customer depending on the customer's current location (Col. 10, lines 49-55).

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As to Claims 21-24, with respect to Figures 1-3, **Beach** teaches a system comprising:

a processor (Col. 3, lines 45-50); and

a storage coupled to said processor to wirelessly link a plurality of customers within a retail facility through a local area network based in the retail facility and enable customers and clerks to communicate with one another via message requests (text messages) through said network (Col. 3, lines 34-38, 57-58 and Col. 11, line 57 through Col. 12, line 3);

Beach does not teach the following limitation:

“customers to communicate with one another”

However, it is obvious that **Beach** suggests the limitation. This is because **Beach** teaches that parent inquiries can be transmitted to other users in a store and which suggests the parent receiving responses to the inquiries (Col. 12, lines 40-44). Swartz teaches mobile units which are used in stores and communication between users (Col. 17, lines 8-26, Col. 7, lines 33-40 and Col. 4, lines 57-61 and Figure 11). Having the cited analogous art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add mobile unit communications to **Beach**'s invention for communication between users as taught by **Swartz**'s invention in order to provide assistance to users and communicate between users.

5. Claims 26-34, 4, 13, 25, 37, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Beach** in view of **Swartz** and further in view of **Ogasawara** (US 6,386,450).

As to Claims 26-34, 4, 13, 25, 37, 40, **Beach** teaches a method comprising:

Establishing a local area network in a retail facility; and

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Provide retail customers with a terminal to communicate with said network,

Beach does not teach the following limitations:

“said terminal being activated by swiping a credit card through a slot in said terminal”

Ogasawara teaches mobile terminals with slots for receiving credit cards or IC cards (Col. 6, lines 26-31 and Figure 1). Having the cited art at the time the invention was made, it would have been obvious to one of ordinary skill in the art to add device slot capability to **Beach**’s invention for exchanging information with a retail facility in order to provide shopping services using portable terminals.

6. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Beach** in view of **Swartz** and further in view of **Kraft et al.** (US 2002/0091568).

As to Claim 43, **Beach** teaches the system of Claim 41 including:

Beach does not teach the following limitation:

“a global positioning device coupled to said processor”

However, it is obvious that **Beach** suggests the limitation. This is because **Beach** teaches the identification of the location of shoppers (Col. 12, lines 52-53). **Kraft** teaches locating shoppers in malls using terminal devices having GPS (Figure 2, label 222, P0021, P0025 – lines 22-26). Since **Beach** and **Kraft** are in analogous art which identifies locations of consumers in shopping facilities, it would have been obvious to one of ordinary skill in the art to add GPS capability to **Beach**’s invention for locating shoppers within a retail facility as taught by **Kraft**’s invention in order to provide notification and help services to shoppers.

Response to Arguments

7. Applicant's arguments filed in the 5/02/05 Remarks have been fully considered but they are not persuasive because of the following:

With respect to Claim 1, **Swartz** teaches that pagers operate over the LAN between customers and over the PBX. Applicant should refer to the cited passages in the 2/23/05 Office Action and in particular to Col. 7, lines 33-40. The background section and Figures 4-5 teaches that the MUs operate in a retail facility.

Claim 4 was grouped with other similar claims and rejected in Section 6 of the 2/23/05 Office Action which is repeated in this Office Action.

With respect to Claims 8-9, Examiner respectfully disagrees for the same reasons given in the cited passage of Beach at Col. 12, lines 51-52.

Claim 11 was grouped with Claim 1 and rejected because of the similar limitations. See the instant rejections. Examiner respectfully disagrees that the dependent claims of Claim 11 and Claim 21 and its corresponding dependent claims distinguish over the prior art for the same reasons given in the 2/23/05 Office Action and repeated in this office action.

With respect to Claim 26, Examiner respectfully disagrees for the same reasons given in the 2/23/05 Office Action in the Response to Arguments section.

With respect to Claim 35, Examiner respectfully disagrees for the same reasons given in the 2/3/05 and instant office actions.

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With respect to Claims 8-9,18-19, the cited passage of Beach at Col. 12, lines 51-52 teaches the recited limitations. It is at Col. 10, lines 49-55 of Beach which teaches the claimed pushing of information that is recited in claim 10.

With respect to Claim 43, Examiner respectfully believes that the combination of Beach with Kraft was proper in teaching the claimed limitations.

Examiner respectfully invites Applicant to contact Examiner to discuss possible amendments for overcoming the prior art of record.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schenker et al. (US 6,633,223) wireless networking and transmission of text between terminals.

Mahany et al. (US 6,654,378) teach communicating between mobile data terminals LAN.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for formal communications; please mark "EXPEDITED
PROCEDURE")

Or:


(703) 306-0377 (for customer service assistance)

Hand-delivered responses should be brought to Carlyle, Alexandria,
VA 22313 (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Allan Hoosain** whose telephone number is (571) 272-7543. The examiner can normally be reached on Monday to Friday from 8 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Fan Tsang**, can be reached on (571) 272-7547.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.


Allan Hoosain
Primary Examiner
7/7/05